



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,222	07/28/2003	Michael Musgrave	COS-738	5474

7590

05/12/2005

David J. Alexander
Fina Technology, Inc.
P.O. Box 674412
Houston, TX 77267-4412

EXAMINER

NUTTER, NATHAN M

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,222

Applicant(s)

MUSGRAVE ET AL.

Examiner

Nathan M. Nutter

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-7 in the reply filed on 14 March 2005 is acknowledged. The traversal is on the ground(s) that

"Group III recites blending an ethylene-propylene random copolymer with a modifier. The claimed process of independent claims 1 and 23 is blending (*sic*). Further, the Office Action does not state why such claims produce an extra burrden. Accordingly, Applicants respectfully traverse the restriction of Group I from Group III and respectfully request withdrawal of the restriction."

This is not found persuasive because The Group III claims are actually drawn to three separate methods, only claim 23, drawn to a method of forming the blend. Claim 24 is actually drawn to a method of "visbreaking the polymer blend" and claim 25 is drawn to a method of "forming the polymer into a film." There are three separate concepts involved and would, indeed, pose an undue burden of further search. The requirement of restriction here is met since "the blend can be made by another and materially different process, such as reactors in series," as pointed out by the restriction requirement.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1711

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Galambos, newly cited.

Note the Abstract which shows the syndiotactic polypropylene and random ethylene propylene copolymer blended as recited in claims 1, 4 and 7. Note column 4 (lines 6-26) for the syndiotactic polypropylene and ethylene content of the random copolymer as recited in claim 3. Note the paragraph bridging column 4 to column 5 for the inclusion of the peroxide of claim 2. Note column 2 (lines 39-48) for the inclusion of polymers as recited in claim 4.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Silvis et al, newly cited.

Note column 3 (lines 45-67) for the random copolymer. Note column 8 (lines 30 et seq.) for the inclusion of the syndiotactic polypropylene.

Claims 1, 3 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wilkie, newly cited.

Note the Abstract for the inclusion of the random copolymer and the syndiotactic polypropylene homopolymer. Further, note the paragraph bridging column 3 to column

Art Unit: 1711

4. The monomer content, as recited in claim 3 for the random copolymer, is taught at column 6 (lines 18 et seq.).

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Matsunaga et al, newly cited.

Note column 3 (line 66) to column 4 (line 29) for the inclusion of the ethylene propylene random interpolmer, and the monomer content of ethylene as recited in claim 3, for the first constituent. Note column 6 (line 55) to column 7 (line 13). The first constituent is taught at column 8 (lines 31-42) as being blended with metallocene ethylene copolymers and terpolymers, as recited in claims 1, 5, 6 and 7. Note the Abstract for the teachings of claim 4.

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tanaka et al, newly cited.

Note column 1 (line 48) to column 2 (line 30) and column 6 (lines 35-60) for the inclusion of the ethylene propylene random interpolmer with a metallocene copolymer (terpolymer). Note column 2 (lines 57-64) for the monomer contents, as recited in claim 3.

Claims 1, 5 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Su et al, newly cited.

Note column 4 (lines 10-24) which teaches the inclusion of the ethylene propylene random interpolmer. Column 4 (lines 34-48 and 54-64) show the inclusion of the metallocene catalysed polymers employed, as recited in claims 5 and 7.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mikielski et al, newly cited.

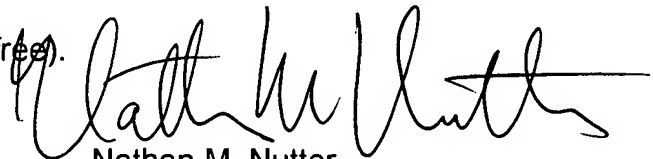
Note the Abstract which teaches the inclusion of the ethylene propylene random interpolymers with a metallocene copolymer (terpolymer). Note column 1 (lines 26-45) for the concept and the compositional limitations recited in claim 4. Note column 1 (lines 46-53) for the monomer contents recited in claim 3.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nathan M. Nutter', is written over the end of the paragraph.

Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

2 May 2005